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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,190	03/01/2007	Steffen Henzler	095309.57677US	6748
23911	7590	01/22/2009	EXAMINER	
CROWELL & MORING LLP			JOYCE, WILLIAM C	
INTELLECTUAL PROPERTY GROUP				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,190	<b>Applicant(s)</b> HENZLER, STEFFEN
	<b>Examiner</b> William C. Joyce	<b>Art Unit</b> 3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 November 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 27-53 is/are pending in the application.
- 4a) Of the above claim(s) 28-33 and 35-49 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 27,34 and 50-53 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is in response to the Election filed November 6, 2008 for the above identified patent application.

#### ***Election/Restrictions***

1. Claims 28-33 and 35-49 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 6, 2008.

#### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 50-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. Claim 50, line 3, the limitation "the main cylinder" lacks proper antecedent basis.

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- b. Claim 51, line 5, the limitation "the main cylinder" lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 27 and 34 rejected under 35 U.S.C. 102(b) as being anticipated by Perry (USP 4,272,999).

Perry illustrates, for example, in Figure 8, a toroidal gearbox, comprising: a central shaft (34); an annular main cylinder (2) disposed on the central shaft; an annular central disk (32) disposed on the main cylinder, the central disk having a toroidal friction surface facing away from the main cylinder; a radial partition wall (7) disposed between the main cylinder and the central disk to form a first working pressure chamber between the partition wall and the central disk which, when pressurized, urges the central disk toroidal friction surface axially away from the main cylinder; and a significant pressure piston (6) disposed in a concentric and axially-movable manner between the partition wall and the main cylinder to form a second working pressure chamber between the pressure piston and the main cylinder, the pressure piston having projections (28) extending

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toward the partition wall, said projections arranged to act upon the central disk and urge the central disk toroidal friction surface axially away from the main cylinder when the second working pressure chamber is pressurized.

7. Claim 50 is rejected under 35 U.S.C. 102(b) as being anticipated by one of Perry (USP 4,713,978) and Maurice (GB 1,146,322).

Perry discloses a toroidal gearbox, comprising: a central shaft (3); an annular central disk (5) disposed on the main cylinder, the central disk having a toroidal friction surface facing away from the main cylinder; an annular cylinder-axial piston servo disposed on the central shaft in a concentric manner; and a pressure line (17) arranged in a motionally fixed manner adjacent to the toroidal friction surface, wherein the central shaft has a longitudinally running inner pressure duct (18) which is in fluid connection with the servo unit, pressurization of the piston servo urges the central disk toroidal friction surface axially away from the piston servo, and the pressure line is connected by a line end to supply working pressure controlled by a pressure control unit to the piston servo via the inner pressure duct of the central shaft.

Maurice discloses a toroidal gearbox, comprising: a central shaft (11); an annular central disk (15) disposed on the main cylinder, the central disk having a toroidal friction surface facing away from the main cylinder; an annular cylinder-axial piston servo disposed on the central shaft in a

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concentric manner; and a pressure line (41,50) arranged in a motionally fixed manner adjacent to the toroidal friction surface, wherein the central shaft has a longitudinally running inner pressure duct (52) which is in fluid connection with the servo unit, pressurization of the piston servo urges the central disk toroidal friction surface axially away from the piston servo, and the pressure line is connected by a line end to supply working pressure controlled by a pressure control unit to the piston servo via the inner pressure duct of the central shaft.

8. Claims 51-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry (USP 4,570,501).

Perry discloses a toroidal gearbox, comprising: a central shaft (2); an annular central disk (1) disposed on the central shaft in a concentric and rotationally-secure manner, the central disk having a toroidal friction surface facing away from the main cylinder; an annular main cylinder disposed on the central disk in a concentric, rotationally-secure manner, and disposed about the central shaft in an axially- nonmovable manner; a radial partition wall (3) disposed between the main cylinder and the central disk to form a first working pressure chamber (5) between the partition wall and the central disk which, when pressurized, urges the central disk toroidal friction surface axially away from the main cylinder; and at least one axially-resilient element (4) disposed between the partition wall and the central disk and arranged to act upon the central disk to urge the

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central disk toroidal friction surface axially away from the main cylinder,  
said at least one axially-resilient element being supported indirectly via the  
partition wall against the main cylinder.

Any inquiry concerning this communication or earlier communications from  
the examiner should be directed to William C. Joyce whose telephone number is  
(571) 272-7107. The examiner can normally be reached on Monday - Thursday  
7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the  
examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The  
fax phone number for the organization where this application or proceeding is  
assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William C. Joyce/ 1/16/08  
Primary Examiner, Art Unit 3656